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In Re Application of
DORFF et al.

Application No.: 10/573,133

PCT No.: PCT/GB04/04116

Int. Filing Date: 24 September 2004

Priority Date: 25 September 2003

Attorney Docket No.: 101158-1P US

For: LIGANDS

DECISION ON

PETITION

This is a decision on applicant's "REQUEST FOR CORRECTED FILING RECEIPT" filed in the United States Patent and Trademark Office (USPTO) on 27 May 2007.

BACKGROUND

On 24 September 2004, applicant filed international application No. PCT/GB04/04116 which claimed a priority date of 25 September 2003 and which designated the United States. Thereafter, on 23 March 2006, before the expiration of the thirty month period, applicant filed, *inter alia*, a transmittal letter for entry into the national stage and the basic national stage filing fee.

A Notification of Missing Requirements (Form PCT/DO/EO/905) was issued on 27 November 2006, indicating that an oath or declaration, in compliance with 37 CFR 1.497(a) and (b), was required.

On 12 January 2007, applicant responded with a declaration. On 20 April 2007, a Notification of Acceptance Under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) was mailed, indicating a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 12 January 2007.

On 27 May 2007, applicant filed a Request for a Corrected Filing Receipt to correct the filing date to 23 March 2006.

DISCUSSION

Section MPEP 1893.03(b) states "An international application designating the U.S. has two stage (international and national) with the filing date being the same in both stages. Often the entry into the national stage is confused with the filing date. It should be borne in mind that the filing date of the international stage application is also the filing date for the national stage application." See 35 U.S.C. 363 and PCT Treaty Article 11(3) (which provides that an international filing date shall be considered the actual filing date in each designated State).

It is further stated in section 1893.03(b) that the Notification of Acceptance of Application under 35 U.S.C. 371 and 37 CFR 1.495 (Form PCT/DO/EO/903) indicates the date of receipt of the 35 U.S.C. 371 (c)(1), (c)(2) and (c)(4) requirements and it indicates the date of completion of

all 35 U.S.C. 371 requirements. Filing receipts are mailed concurrently with the mailing of the Form PCT/DO/EO/903. Applicants are quite often confused as to the true filing date and will ask for corrected filing receipts thinking that the information thereon is wrong. This explanation should offer some clarity. For most legal purposes, the filing date is the PCT international filing date.

The Notification of Missing Requirements advised applicant of the deficiency-a declaration in compliance with 37 CFR 1.497(a) and (b) was required.¹ Applicants responded to the Notification of Missing Requirements, on 12 January 2007, with such declaration. Thus, on 12 January 2007, all of the 35 U.S.C. 371 requirements were complete. The 20 April 2007 Notification of Acceptance correctly indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 12 January 2007, the date of receipt of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) requirements and date of completion of all 35 U.S.C. 371 requirements.

The Notification of Acceptance mailed on 20 April 2007 correctly indicated a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 12 January 2007 and remains in effect.

CONCLUSION

For the reasons set forth above, the Request to Correct the Filing Receipt is **DISMISSED**.

The Notification of Acceptance (Form PCT/DO/EO/903) mailed on 20 April 2007 remains in effect, as it correctly indicates a 35 U.S.C. 371(c) (1), (c)(2) and (c)(4) date of 12 January 2007.



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¹As stated in MPEP 1893.01(d), applicants entering the national stage in the U.S. are required to file an oath or declaration, in compliance with 37 CFR 1.497(a). See 35 U.S.C. 371(a)(2) and 37 CFR 1.495(c).